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IN THE

Supreme Court of the United States

October Term, 1974
No. 74-383

RIVER FARMS, INC., a corporation,
Petitioner,

v.

GUY B. FOUNTAIN, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the
Supreme Court of the State of Arizona

BRIEF FOR RESPONDENTS IN OPPOSITION

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JURISDICTION

This is a response to petition for certiorari to the Supreme Court of Arizona. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(3).

STATEMENT OF THE CASE

This case involves land lying along the Colorado River at the point of the border between Arizona and California. The plaintiff is an Arizona corporation claiming the land of some fifty California families, and the basis of the claim as made was accretion. The defense was (1) non-accretion; and

(2) adverse possession.

The state courts found that under the Arizona adverse possession law, A.R.S. § 12-525, there had been adverse possession for a five-year period. Hence it found it unnecessary to decide whether, prior to that time, there had been movement of the River by accretion.

Incidental to the determination of the meaning of the Arizona statute are certain subsidiary questions. The statute depends, in addition to actual physical possession, upon the payment of taxes and claims under deeds duly recorded. There is a problem as to whether the payment of taxes or of the making of recordings in either state would serve the purposes of this statute. The position of petitioner is that only payment and recording in the "right" state would serve the purpose, and that to determine which is the "right" state, it was necessary to determine the accretion issues.

The Arizona courts, in the light of the Arizona-California Interstate Boundary Compact, A.R.S. § 41-522, *et seq.*, saw fit to interpret the Arizona statute to make recordings and taxes paid in California sufficient for purposes of the Arizona law.

This petition followed.

REASONS FOR DENYING THE WRIT

Only in a shirttail sense is there any federal question in this case at all. The fundamental question is the interpretation of the Arizona law.

But let us not make the matter too easy. It is true that the Arizona court looked to the Compact for general principles of guidance in reaching its conclusions as to the meaning of the Arizona law. To that limited extent there is a federal

question in the case. However, there is no serious showing of a conflict with any other decision relating to these terribly specialized points, nor is there any suggestion of any particular importance to the question. We are dealing with a highly practical matter of land title, and one heavily dependent upon its facts. No one can very seriously quarrel with the proposition of the Arizona court that, "we merely state that great liberality should be allowed in filing of titles which have been clouded by the shifting of the Colorado River over the years." On the tax point, the matter is one of state law only: "We feel that the paying of taxes in California substantially complies with the requirement of A.R.S. § 12-525."

CONCLUSION

It is respectfully submitted that the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,
LEWIS AND ROCA

By John P. Frank

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October, 1974.